IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3486 OF 2006

Ravi Veersing Indrekar (Rajput) Applicant
versus
The State of Maharashtra Respondent

S.A.Ingawale for applicant.
Smt.M.M.Deshmukh, adv. for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 3rd October 2006

PC :

1. The applicant is the original accused no.2. He is arrested in connection with CR No.26 of 2006 registered at Radhanagari Police Station, District Kolhapur alleging offences punishable under sections 302, 364, 452, 427, 323 r/w 34 of IPC.. The applicant is arrested on 17th April 2006. Admittedly, investigations are complete and charge sheet is filed.

2. The arrest is effected on the FIR lodged by mother of the applicant. The deceased Balu Salvi, it is alleged, and the mother of applicant were having illicit relations. The father of the

applicant died about 17 years ago. However, the applicant was annoyed by the fact that the deceased used to frequently visit his mother at Village Rashiwade. The further allegation is that on the date of incident, the applicant along with his brother and uncle came to the house of the mother at mid night and after administering fist blows took away the deceased from the house on motor-cycle and later on was thrown into the flowing river. His dead body was recovered on 16th April 2006. It was identified by the sister of deceased Sharda.

3. The Medical Officer has opined that the death is caused due to Aphyxia by drowning.

4. The learned APP, however, states that bail should not be granted to the applicant because the applicant has been identified by the eye witness mother. The mother is residing at Village Rashiwade. She and the sister of deceased are two women witnesses. If the applicant is enlarged on bail, there is every likelihood of the applicant visiting the house of complainant and threaten so also assault her with a view to prevent her from deposing in Court. There is, therefore, a serious apprehension.

Apart from this, the applicant had a motor-cycle which was recovered at his instance. For all these reasons and the offences alleged being serious and punishable with death or life imprisonment, the applicant does not deserve to be enlarged on bail.

5. It is true that the offence is serious and there is a prima facie against the applicant. However, it is well settled that the same by itself is not a ground to deny bail. Everything depends upon facts and circumstances in each case. The relevant factors which have to be applied while enlarging the applicant on bail are well settled. In the present case, for last eight to nine years, the deceased was having illicit relations with the mother of the applicant. The applicant and his brother so also their uncle were annoyed and angry. The applicant, it is alleged that, was annoyed also by the fact that the deceased was paying some amount for maintenance of his mother. It is in these circumstances that the incident took place. It is nobody’s case that apart from the motor-cycle there is any recovery. Further, apart from the oral statements, no material is pointed out to show that the applicant is having

such antecedents and history as would create serious apprehension in the mind of the Court that on release he would abscond or threaten his mother and other eye witness. That apart, the apprehension can be taken care of by imposing stringent conditions. Once the investigations are complete and charge sheet is filed, in my view, the Trial court was in error in rejecting the application of the applicant for releasing him on bail.

6. The following order, therefore, would subserve the ends of justice.

7. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.22 of 2006 registered at Radhanagari Police Station, District Kolhapur, subject to furnishing a personal bond of Rs.10,000/- (Rs.Ten thousand only) with one or two local sureties in the like sum;

(ii) The applicant shall not enter Radhanagari Taluka limits and would continue to reside at village Kogil, Taluka Kagal, District Kolhapur till conclusion of the trial;

(iii) The applicant shall report to Kagal Police Station once a week till conclusion of trial;

(iv) Needless to state that breach of any of these conditions would entail this order being automatically cancelled and set aside and the prosecution would be at liberty to take the applicant into custody;

(v) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence;

(vi) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail;

(vii) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial;

(viii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)